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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

SMASH TECHNOLOGY, LLC, a Nevada
limited liability company; and MICHAEL
ALEXANDER, an individual;

Plaintiffs,

vs.

SMASH SOLUTIONS, LLC, a Delaware
limited liability company; JERRY “J.J.”
ULRICH, an individual; SMASH
INNOVATIONS, LLC, a Wyoming limited
liability company; FERACODE, LLC, a Utah
limited liability company;

Defendants.

SMASH SOLUTIONS, LLC, a Delaware
limited liability company; and JERRY “J.J.”
ULRICH, an individual;

Counterclaim Plaintiffs,

vs.

SMASH TECHNOLOGY, LLC, a Nevada
limited liability company; and MICHAEL
ALEXANDER, an individual,

Counterclaim Defendants.

**PLAINTIFFS’ RESPONSE TO SHORT
FORM DISCOVERY MOTION TO
COMPEL COMPLETE INITIAL
DISCLOSURES AND RELATED
DISCOVERY RESPONSES**

Case No. 2:19-cv-00105-TC

Judge Tena Campbell

Chief Magistrate Paul M. Warner

Defendants' Short Form Discovery Motion to Compel Complete Initial Disclosures and Related Discovery Responses [Dkt. No. 77] should be denied. The demand is premature and Defendant JJ Ulrich's failure to respond to discovery requests is a primary reason why Plaintiffs cannot provide the documents and information requested. To address that void, Plaintiffs are incurring costs to seek these documents through third parties.

As a central character in this litigation, Ulrich's cooperation is necessary to complete discovery. Defendants are asking to compel supplemental discovery responses for specific damage calculations when Defendants have failed to produce the underlying documents. Indeed, Plaintiffs' prior counsel raised this issue last August. *See* Plaintiffs' Meet and Confer Letter, *attached at* Ex. 1.

To be sure, this case has been pending for more than a year. But that includes the time spent on Defendants' threshold motions, which were denied on August 20, 2019. [Dkt. No. 54]. After oral argument on the motions, the parties focused on discovery. Plaintiffs have cooperated in that process but, again, broad questions about damages and expert testimony for more than a dozen pending claims requires documents that have not been disclosed. In any event, Plaintiffs have issued subpoenas for documents and will supplement as responses arrive. *See* Notices of Subpoenas, *attached at* Ex. 2.

Moreover, this is not a simple contract case. Plaintiffs are in the process of retaining experts, but experts need to review documents. As alleged, Defendants took large amounts of cryptocurrency, converted it to cash, and moved the cash. Defendants have provided a minimal set of statements, but the limited discovery illustrates the movement of funds. *See* Chart, *attached at* Ex. 3. All along, Defendants took measures to conceal these activities, and the

statements will go to the heart of this case. Again, Defendants' actions have hindered the discovery process, but Plaintiffs will use alternative means to get to the information.

For these reasons, Defendants' Short Form Discovery Motion to Compel Complete Initial Disclosures and Related Discovery Responses [Dkt. No. 77] should be denied.

DATED this 9th day of March, 2020.

Deiss Law PC

/s/ Andrew G. Deiss

Andrew G. Deiss

Corey Riley

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of March, 2020, I filed a copy of the foregoing to be served with the Clerk of the Court using the CM/ECF system, which sent notification of the filing to the following:

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/s/ Corey D. Riley